

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MacNEIL AUTOMOTIVE PRODUCTS
LIMITED d/b/a WEATHERTECH; and
MacNEIL IP LLC,

Plaintiffs,

v.

YITA, LLC d/b/a Oedro or YitaMotor,

Defendant.

C20-278 TSZ

MacNEIL AUTOMOTIVE PRODUCTS
LIMITED d/b/a WEATHERTECH; and
MacNEIL IP LLC,

Plaintiffs,

v.

JINRONG (SH) AUTOMOTIVE
ACCESSORY DEVELOPMENT CO.,
LTD.; and RUI DAI,

Defendants.

C20-856 TSZ

MINUTE ORDER SETTING
TRIAL DATE AND RELATED
DEADLINES

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Having reviewed the parties' Joint Status Reports in these matters, the Court hereby CONSOLIDATES these cases for pretrial purposes. All future filings shall bear both captions, but only the lower case number, *i.e.*, C20-278 TSZ. The Clerk is DIRECTED to administratively CLOSE Case No. C20-856 TSZ. The Court defers ruling on whether these actions will be consolidated for trial. If the Court determines that the

1 matters will be tried separately,¹ the higher case number will be reopened for purposes of
 2 filing trial-related materials.

3 (2) In Case No. C20-278 TSZ, the parties stipulated to the withdrawal of Yita,
 4 LLC's motion to dismiss, docket no. 61, and plaintiffs' filing of a Second Amended
 5 Complaint within fifteen (15) days after these cases were consolidated. See Stip. & Order
 6 (docket no. 67). In their Joint Status Report, docket no. 86, the parties make no mention
 7 of this earlier stipulation, but they propose a deadline to file amended pleadings that is
 8 subsequent to a deadline for Yita, LLC to file a renewed motion to dismiss.

9 (a) To the extent that plaintiffs intend to amend their pleading with
 10 respect to Yita, LLC, plaintiffs shall electronically file their Second Amended
 11 Complaint within fourteen (14) days of the date of this Minute Order.

12 (b) If plaintiffs file a Second Amended Complaint, then Yita, LLC shall
 13 file its responsive pleading or motion within twenty-one (21) days thereafter.

14 (c) If plaintiffs do not file a Second Amended Complaint, then Yita,
 15 LLC shall file its responsive pleading or motion within twenty-eight (28) days of
 16 the date of this Minute Order.

17 (d) Any responsive motion shall be limited to the issues set forth in Yita,
 18 LLC's previous motion to dismiss, docket no. 61, other than venue, and to any
 19 new claims asserted in any Second Amended Complaint.

20 (3) In Case No. C20-856 TSZ, the Court struck a motion to dismiss, docket
 21 no. 199, filed by Jinrong (SH) Automotive Accessory Development Co., Ltd. ("Jinrong"),
 22 without prejudice to filing either a responsive pleading or motion within sixty (60) days
 23 after Jinrong provided samples of the accused products, which were due on March 31,
 2022. See Minute Order at ¶¶ 1(a)&(b) (docket no. 209).

(a) Any responsive motion shall be limited to the issues set forth in
 Jinrong's previous motion to dismiss, docket no. 199, and shall be consolidated

¹ The Court notes that the parties previously filed a stipulation to consolidate these cases for all
 purposes, indicating their agreement that these matters "involve common questions of law and
 fact" and that "the best interests of all parties and judicial economy" would be served by
 consolidating these actions. See Stipulation (C20-278, docket no. 68); Notice of Stipulation
 (C20-856, docket no. 70). The Court did not earlier approve the parties' stipulation because, at
 the time, a stay was appropriate in the lower-numbered case but not in the higher-numbered one.
See Minute Order (C20-856, docket no. 74); see also Minute Order (C20-856, docket no. 87);
 Minute Order (C20-856, docket no. 115). The stipulation, however, remains part of the record,
 and a stronger showing than is set forth in the recent Joint Status Reports will be required to
 render the parties' prior agreement ineffective.

with any responsive motion filed by Yita, LLC. Such consolidated motion shall be filed by the applicable deadline set forth in Paragraph 2, above, and shall not exceed twenty-four (24) pages in length. If Yita, LLC elects to file a responsive pleading rather than a responsive motion, then Jinrong's renewed motion to dismiss, if any, shall be filed within thirty-five (35) days of the date of this Minute Order.

(b) If Jinrong opts not to renew its motion to dismiss the infringement claims involving U.S. Patent Nos. 8,899,655 and/or 9,138,917, then Jinrong shall file its responsive pleading within fourteen (14) days of the date of this Minute Order.

(4) Having reviewed the parties' Joint Status Reports, docket no. 86 in Case No. C20-278 TSZ and docket no. 210 in Case No. C20-856 TSZ, the Court SETS the following trial date and related deadlines:

JURY TRIAL DATE (7-10 days) March 25, 2024

Statement of asserted claims and preliminary infringement contentions due (if not previously served or as amended) May 18, 2022

Statement of preliminary non-infringement and invalidity contentions due June 21, 2022

Deadline for joining additional parties June 27, 2022

Parties to exchange preliminary proposed constructions of disputed claim terms and provide list of proposed extrinsic evidence January 6, 2023

Joint Claim Chart and Prehearing Statement due March 10, 2023

Parties to disclose reports from expert witnesses, if any, regarding Markman issues March 10, 2023

Parties to disclose rebuttal expert reports, if any, regarding Markman issues April 10, 2023

Deadline for completion of claim construction discovery and for amending pleadings May 5, 2023

Opening claim construction briefs filed by May 12, 2023
(and noted for the date that the responsive claim construction
briefs are due)

Responsive claim construction briefs filed by June 2, 2023

If a claim construction (Markman) hearing is necessary,
one will be set upon at least 20 days' notice to the parties.

Reports from expert witnesses under FRCP 26(a)(2) due September 5, 2023

Rebuttal expert reports due October 5, 2023

All discovery motions must be filed by October 26, 2023
(and noted on the motion calendar no later than the third
Friday thereafter)

Discovery completed by December 1, 2023

All dispositive motions must be filed by January 4, 2024
(and noted on the motion calendar no later than the
fourth Friday thereafter; see LCR 7(d))

All motions related to expert witnesses January 11, 2024
(*e.g.*, Daubert motion) must be filed by
and noted on the motion calendar no later
than the third Friday thereafter (see LCR 7(d))

All motions *in limine* must be filed by February 15, 2024
(and noted on the motion calendar for the Friday before
the Pretrial Conference)

Agreed pretrial order² due March 1, 2024

Trial briefs, proposed voir dire questions, proposed jury March 1, 2024
instructions, and trial exhibits due

² The agreed pretrial order shall be filed in CM/ECF and shall also be attached as a Word compatible file to an e-mail sent to the following address: ZillyOrders@wawd.uscourts.gov.

1 Pretrial Conference at 10:00 a.m. on March 15, 2024

2 All other dates and deadlines are specified in the Federal Rules of Civil Procedure,
3 the Local Civil Rules, and the Local Patent Rules. These are firm dates that can be
4 changed only by order of the Court, not by agreement of counsel or the parties. The
Court will alter these dates only upon good cause shown: failure to complete discovery
within the time allowed is not recognized as good cause.

5 If the trial date and/or other dates assigned to this matter create an irreconcilable
6 conflict, counsel must notify Judge Zilly's Chambers at (206) 370-8830, within 14 days
7 of the date of this Minute Order and explain the exact nature of the conflict. A failure to
do so will be deemed a waiver. Counsel must be prepared to begin trial on the date
8 scheduled, but should understand that the trial might have to await the completion of
other cases.

9 Claim Construction (Markman) Hearing

10 Any claim construction hearing will be set for a half-day (2.5 hours). If more or
less time is required, the parties are instructed to inform Judge Zilly's Chambers at
(206) 370-8830.

11 PLEASE NOTE: The Court will not rule on dispositive motions that raise issues
12 of claim construction prior to the Markman Hearing, unless special circumstances
warrant doing so and leave of Court is obtained in advance of filing.

13 Exhibits

14 The original and one copy of any exhibit to be used at the Markman Hearing
15 and/or trial are to be delivered to the Court at least five (5) days before the hearing and/or
trial date at a time coordinated with Courtroom Deputy Clerk Gail Glass, who can be
16 reached at (206) 370-8522.

17 Notwithstanding Local Civil Rule 16.1, the exhibit list shall be prepared in table
format with the following columns: "Exhibit Number," "Description," "Admissibility
18 Stipulated," "Authenticity Stipulated/Admissibility Disputed," "Authenticity Disputed,"
and "Admitted." The latter column is for the Clerk's convenience and shall remain
blank, but the parties shall indicate the status of an exhibit's authenticity and
19 admissibility by placing an "X" in the appropriate column. Duplicate documents shall
not be listed twice: once a party has identified an exhibit in the pretrial order, any party
20 may use it.

21 Each set of exhibits shall be submitted in a three-ring binder with appropriately
22 numbered tabs. Each exhibit shall be clearly marked. Plaintiff's exhibits shall be
numbered consecutively beginning with 1; defendant's exhibits shall be numbered

1 consecutively beginning with the next multiple of 100 after plaintiff's last exhibit; any
2 other party's exhibits shall be numbered consecutively beginning with the next multiple
3 of 100 after defendant's last exhibit. For example, if plaintiff's last exhibit is numbered
159, then defendant's exhibits shall begin with the number 200; if defendant's last exhibit
number is 321, then any other party's exhibits shall begin with the number 400.

4 Settlement

5 Should this case settle, counsel shall notify Judge Zilly's Chambers at (206) 370-
8830 as soon as possible.

6 (5) The Clerk is directed to send a copy of this Minute Order to all counsel of
7 record.

8 Dated this 4th day of May, 2022.

9 Ravi Subramanian
Clerk

10 s/Gail Glass
11 Deputy Clerk